From: Jammys2@aol.com@inetgw
To: Microsoft ATR
Date: 1/23/02 4:43pm
Subject: Microsoft Settlement

To: Renata B. Hesse
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Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. It is my understanding that the purpose of the Proposed Final Judgement should be to reduce, as much as possible, the Applications Barrier to Entry. In other words, make it the market more open to competition from other products. After reading the Proposed Final Judgement and multiple essays on its problems and benefits, I have noticed many things that I take issue with. However, I'd like to focus on one in particular. This problem is in the issue of Microsoft End User License Agreements (EULA).

It has been shown that Microsoft creates EULA's that place anticompetitive restrictions on the user, and that Microsoft has intentionally created incompatibilities to keep users from using Windows applications on compatible operating systems that are not Windows. One example of this is in the license agreement for the Microsoft software, NewsAlert - offered by MSNBC. In that license it says,

"MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of the operating system for which the SOFTWARE PRODUCT was designed [e.g., Microsoft Windows(r) 95; Microsoft Windows NT(r), Microsoft Windows 3.x, Macintosh, etc.]. ..."

Users of competing operating systems, such as Linux, which are capable of running some Windows applications are not legally capable, under this restrictive license, to use this program. One suggestion as to how restrictive licenses such as this should be forced to be changed is for the excerpt above to be re-written as follows:

"MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system."

In the past, it has been shown that Microsoft places technical barriers on competition as well. The 1996 Caldera v. Microsoft case shows how Microsoft added code to its product so that, when run on a competing operating system (DR-DOS in this case), it would give the user an error. As I'm sure you can easily look up, the judge ruled that "Caldera has presented sufficient evidence that the incompatibilities alleged were part of an anticompetitive scheme by Microsoft."

Unfortunately, with the Proposed Final Judgement as it stands, there is no language to prohibit these restrictive licenses nor is there language to prohibit future intentional incompatabilities. Therefore, in its current state, the Proposed Final Judgement assists Microsoft in continuing these actions and does not

succeed in opening the Applications Barrier to Entry.

In closing, I would like to add my support for Dan Kegel's essay, "On the Proposed Final Judgement in United States v Microsoft," located at http://www.kegel.com/remedy/remedy2.html, which is the source of the facts I have included in this letter. I would also like to add my support for his suggested amendments to the Proposed Final Judgement, which are described near the end of his essay, and to the alternate settlement proposed by some of the plaintif states and located on the website for the National Association of Attorneys General at http://www.naag.org/features/microsoft/ms-remedy_filing.pdf.

Sincerely,

Bree Baskin